

REMARKS/ARGUMENTS

The specification and the drawings have been amended to correct minor typographical errors.

Claim 1 has been amended to more clearly define the raised portion and to address the Examiner's rejections under 35 U.S.C. §112 by clarifying that the apparatus containing edible material and an inert gas under pressure. Claims 17 and 18 have been amended for the sake of consistency with amended claim 1. It is respectfully submitted that the amendments to the claims merely make explicit that which was implicit in the claims and therefore were not made for purposes related to patentability.

Claims 1-5 and 15-22 stand rejected under 35 U.S.C. §112, first paragraph as being non-enabling. As noted above, claim 1 has been amended to clarify that the apparatus contains edible material and an inert gas under pressure. Claim 1 has also been amended to clarify the raised portion. In view of the foregoing it is respectfully submitted that claim 1, as amended, clearly satisfies 35 U.S.C. §112, first paragraph. Claims 2-5 and 5-22 are dependent either directly or indirectly from claim 1 and therefore similarly satisfy 35 U.S.C. §112, first paragraph.

Claim 1, 2, 4, 15, 16 and 19-22 are rejected under 35 U.S.C. §102(b) as being anticipated by Diamond et al., U.S. Patent No. 5,804,237. Applicants respectfully traverse this rejection.

Applicants agree that in regard to claim 1, Diamond, et al., as stated by the Examiner, discloses an apparatus for containing sterilized edible material which comprises: a thin wall sealed container for edible material sterilized in a sterilization process and an inert gas, the container being easily deformable in the absence of such pressure and having a top end and a bottom end with at least one end being of a concave slope relative to the inside of the container, the at least one end being of a material and having a thickness and shape such that said at least one end of said sealed container will retain a substantially concave slope before, during and after said sterilization process but will become convex only if there is any additional gas pressure generated due to bacterial action in the pressurized sealed container.

Applicants disagree, however, that Diamond, et al. discloses that the top end has a raised portion formed inwardly of the side wall, as now defined in amended claim 1. More specifically, as defined in amended claim 1, the container has an upper chime at a height above the top end

and the raised portion has an upper surface which is at least at the same height as that of the upper chime.

It is clear that the corrugation(s) in Diamond, et al. are substantially below the height of the chime.

In view of the foregoing, it is respectfully submitted that claim 1, as amended, is clearly patentable over Diamond, et al.

Claims 2, 4, 15, 16 and 19-21 are dependent either directly or indirectly from claim 1 and are, therefore, patentable for the same reasons, as well as because of the combination of the features set forth in these claims with the features set forth in the claim(s) from which they depend.

Claims 3 and 5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Diamond et al. as applied to claim 1 and further in view of Saunders, U.S. Patent No. 3,608,774. Applicants respectfully traverse this rejection.

Claims 3 and 5 are dependent indirectly from claim 1. Since Saunders does not cure any of the deficiencies of claim 1 noted above, it is respectfully submitted that claims 3 and 5 are therefore patentable over the combination of Diamond et al. and Saunders for the same reasons advanced above in connection with claim 1 as well as because of the combination of the features set forth in these claims with the features set forth in claim 1.

Claims 17 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Diamond et al. as applied to claim 1 and further in view of Knize, U.S. Patent No. 3,799,388. Applicants respectfully traverse this rejection.

Claims 17 and 22 are dependent directly or indirectly from claim 1. Accordingly, since Knize does not cure any of the deficiencies of claim 1 discussed above, it is respectfully submitted that claims 17 and 22 are patentable over the combination of Diamond et al. and Knize for the same reasons advanced above in connection with the patentability of claim 1, as well as the combination of the features set forth in these claims with the features set forth in claim 1.

Claims 18 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Diamond et al. as applied to claim 1 and further in view of Creegan, U.S. Patent No. 3,105,765 and Shepard, U.S. Patent No. 4,560,080. Applicants respectfully traverse this rejection.

Claim 18 is dependent indirectly from claim 1. Since neither Creegan nor Shepard cure the deficiencies of claim 1 discussed above, it is respectfully submitted that claim 18 is patentable over the combination of Diamond et al., Creegan and Shepard for the same reasons advanced above in connection with claim 1 as well as because of the combination and the features set forth in accordance with the features set forth in claim 18 with the features set forth in claim 1.

In view of the foregoing this application is now believed to be in condition for allowance, which action is respectfully requested.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on July 7, 2003

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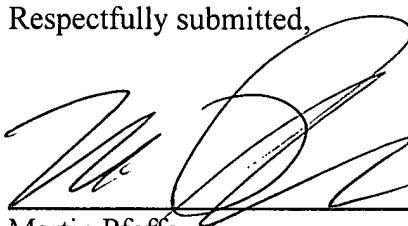
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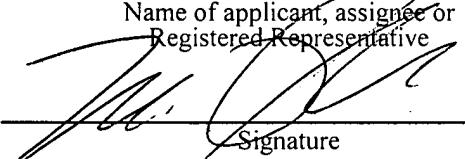

Signature

July 7, 2003

Date of Signature

Respectfully submitted,




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